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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE  
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10 HUA YE,

11 Plaintiff,

12 v.

13 STATE FARM MUTUAL AUTOMOBILE  
14 INSURANCE COMPANY,

15 Defendant.  
16

Case No. C16-1836RSL

ORDER GRANTING RELIEF  
FROM EXPERT  
DISCLOSURE DEADLINE

17 This matter comes before the Court on plaintiff's "Motion Requesting Relief from  
18 Deadline for Disclosure of Expert Witnesses." Dkt. # 11. For the reasons explained below, the  
19 motion is GRANTED.

20 **I. BACKGROUND**

21 This case arises out of a dispute between plaintiff, Hua Ye, and her insurer, State Farm  
22 Mutual Automobile Insurance Company ("State Farm"), over how much value her Lamborghini  
23 lost when an uninsured motorist crashed into it in an April 2015 hit-and-run accident. Dkt. # 1-5.  
24 After the accident, plaintiff invoked her insurance policy's uninsured motorist provision, and in  
25 the fall of 2015 the parties exchanged appraisals calculating how much value her car had lost.  
26 State Farm's appraiser Rob Marinelli placed the recoverable value loss \$76,285 below what Ms.  
27 Ye's appraiser calculated. State Farm ultimately rejected the calculations of Ms. Ye's appraiser,  
28 and paid out the amount determined by Mr. Marinelli.

1 In October 2016, Ms. Ye filed a complaint in state court, which State Farm removed to  
2 this Court, alleging breach of contract, bad faith, and violations of Washington’s Insurance Fair  
3 Conduct Act. Dkt. # 1-5. The Court set a deadline of July 12, 2017, for submitting expert  
4 witnesses and reports. See Fed. R. Civ. P. 26(a)(2). On that day, State Farm submitted a  
5 diminished-value report from a new appraiser, which said Ms. Ye could recover \$37,250 more  
6 than the amount in Mr. Marinelli’s report. Plaintiff later discovered that Mr. Marinelli and his  
7 company had been the subject of a June 2016 order from the Washington State Insurance  
8 Commissioner directing them to cease and desist from performing insurance-claim appraisals,  
9 because neither Mr. Marinelli nor his company’s relevant appraisers had adjuster licenses issued  
10 by the Commissioner. See Dkt. # 13-2. The following month, plaintiff counsel asked to submit a  
11 report from an insurance expert opining on the implications of State Farm relying on Mr.  
12 Marinelli’s report. Defense counsel refused because the deadline for submitting expert material  
13 had passed. Shortly before the discovery cutoff, plaintiff filed the instant motion seeking relief  
14 from the expert-disclosure deadline in order to include in the record expert evidence from Mary  
15 Owen, an attorney who plaintiff offers as an insurance expert.

## 16 II. DISCUSSION

17 Federal Rule of Civil Procedure 26 requires disclosure of the expert witnesses and reports  
18 that a party intends to rely on at trial. Fed. R. Civ. P. 26(a)(2)(A)–(C). Rule 26 also requires that  
19 a party “make these disclosures at the times and in the sequence that the court orders.” Fed. R.  
20 Civ. P. 26(a)(2)(D). If disclosure is untimely, the disclosing party may not use that expert  
21 material “to supply evidence on a motion, at a hearing, or at a trial, unless the failure was  
22 substantially justified or is harmless.” Fed. R. Civ. P. 37(c)(1). Whether to exclude untimely  
23 expert disclosures, however, “is not a strictly mechanical exercise,” Esposito v. Home Depot  
24 U.S.A., Inc., 590 F.3d 72, 77 (1st Cir. 2009) (citation omitted), and those decisions account for  
25 the importance of the evidence at issue, an extension’s impact on a court’s docket, and “the  
26 public policy favoring disposition of cases on their merits,” Galentine v. Holland Am. Line-  
27 Westours, Inc., 333 F. Supp. 2d 991, 993 (W.D. Wash. 2004).

The Court concludes the circumstances here warrant an extension for plaintiff to seek expert evidence on the implications of State Farm relying on the Marinelli report. Plaintiff discovered the state administrative proceedings against Mr. Marinelli on or after the expert-disclosure deadline. The implications of relying on an unlicensed appraiser's report could have particular significance for a bad faith claim that alleges an insurer failed to conduct a reasonable investigation. Excluding relevant evidence on that question would ignore "the public policy favoring disposition of cases on their merits." Galentine, 333 F. Supp. 2d at 993. Furthermore, this case has no history of onerous continuances or deadline violations. Discovery is not complex. No dispositive motions have been filed, and the parties appear to still have outstanding depositions according to their briefs. State Farm claims it will suffer harm from having to rebut the additional evidence this extension allows, but the Civil Rules provide a party with 30 days following an expert-material disclosure to in turn disclose expert material in rebuttal. Fed. R. Civ. P. 26(a)(2)(D)(ii). Given this case's posture and the time State Farm will have to respond, the Court concludes the potential harm to State Farm is not severe enough to warrant exclusion.<sup>1</sup>

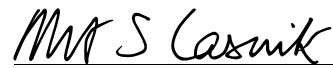
### III. CONCLUSION

For the foregoing reasons, plaintiff's motion is GRANTED. Plaintiff will have until October 9, 2017, to disclose additional Rule 26(a)(2) expert material; State Farm will have until November 8, 2017, to disclose rebuttal expert material, see Fed. R. Civ. P. 26(a)(2)(D)(ii); and the deadline for completion of discovery is continued until November 23, 2017.

The Court will issue a separate case management order detailing this disposition's impact on remaining case deadlines.

<sup>1</sup> The parties also disagree over whether Ms. Owens may opine on the reasonableness of defendant's actions during litigation. That disagreement is irrelevant to the question of whether discovery ought to be continued, and the parties are free to address its merits in future motions.

1 DATED this 2nd day of October, 2017.  
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5 Robert S. Lasnik  
6 United States District Judge  
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